

Regular Session, 2012

SENATE BILL NO. 164

BY SENATOR MARTINY

BANKS/BANKING. Provides relative to loans by state banks and limitations on loans. (gov sig)

AN ACT

To amend and reenact R.S. 6:415(B), (C), (D), (F) and (G), and to enact R.S. 6:415(I), relative to banking; to provide certain restrictions and prohibit certain practices; to provide for loans, credit exposure, derivative transactions, restrictions, and rules; to provide certain definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:415(B), (C), (D), (F) and (G) are hereby amended and reenacted, and R.S. 6:415(I) is hereby enacted to read as follows:

§415. Loans; **other credit exposure; derivative transactions;** restrictions; penalties

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B. A state bank shall not loan on a secured basis to any one borrower, directly or indirectly, an amount in excess of one-half the sum of its capital stock and surplus, **provided that all amounts loaned on an unsecured basis up to the limit set forth in Subsection A shall be added to all amounts loaned on a secured basis pursuant to this Subsection, and the total thereof shall not exceed one half of the state bank's capital stock and surplus.** However, a state bank may loan to one

1 borrower an amount not to exceed the sum of its capital stock and surplus, but only
2 when such loan is secured by a pledge of obligations of the United States of
3 America, or of the state of Louisiana, or any subdivision or municipality thereof, or
4 is a commodity loan secured by readily marketable staples.

5 C. Loans and other extensions of credit which are fully secured by a pledge
6 of any deposit of the lending bank are not subject to any of the limits prescribed by
7 this Section. For the purposes of this Subsection, a loan or other extension of
8 credit is "fully secured" only to the extent of the dollar amount of the funds in
9 the deposit account at any time while the loan or other extension of credit is
10 outstanding, and provided that as to the funds in the deposit account that are
11 relied upon for the exemption provided in this Subsection comply with all of the
12 following requirements:

13 (1) A security interest has been and remains perfected as to third parties
14 pursuant to applicable state and federal laws and regulations.

15 (2) The bank maintains adequate internal controls and procedures to
16 prevent improper release of the pledged deposit account funds.

17 (3) The funds in the pledged deposit account are fully collected and
18 subject to no superior or intervening right or order of a party other than the
19 bank.

20 (4) The funds remain on deposit in the deposit account at all times while
21 the loan or extension of credit is outstanding.

22 D. The acceptance of drafts ~~and~~ , the issuance of letters of credit, and the
23 entering into any credit exposure arising from a derivative transaction,
24 repurchase agreement, reverse repurchase agreement, securities lending
25 transaction, or securities borrowing transaction between the lending bank and
26 the borrower shall also be subject to this Section. For purposes of this Section,
27 a "derivative transaction" shall include any transaction that is a contract,
28 agreement, swap, warrant, note or option that is based, in whole or in part, on
29 the value of, any interest in, any quantitative measure of, or the occurrence of

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Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become

1 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

Martiny (SB 164)

Present law prohibits a state bank from making a loan on a secured basis to any one borrower, directly or indirectly, in an amount in excess of one-half the sum of its capital stock and surplus.

Proposed law retains present law and additionally requires that all amounts loaned on an unsecured basis up to the limit set forth in present law be added to all amounts loaned on a secured basis pursuant to the present law, and the total thereof not exceed one half of the state bank's capital stock and surplus.

Present law provides that loans and other extensions of credit which are fully secured by a pledge of any deposit of the lending bank are not subject to any of the limits prescribed by present law.

Proposed law retains present law and further specifies that a loan or other extension of credit is "fully secured" only to the extent of the dollar amount of the funds in the deposit account at any time while the loan or other extension of credit is outstanding, and provided that as to the funds in the deposit account that are relied upon for the exemption provided in this proposed law comply with all of the following requirements:

1. A security interest has been and remains perfected as to third parties pursuant to applicable state and federal laws and regulations.
2. The bank maintains adequate internal controls and procedures to prevent improper release of the pledged deposit account funds.
3. The funds in the pledged deposit account are fully collected and subject to no superior or intervening right or order of a party other than the bank.
4. The funds remain on deposit in the deposit account at all times while the loan or extension of credit is outstanding.

Present law requires that the acceptance of drafts and the issuance of letters of credit are also subject to present law.

Proposed law retains present law and further specifies that transactions involving the entering into any credit exposure arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the lending bank and the borrower are also subject to present law.

Proposed law defines a "derivative transaction" as any transaction that is a contract, agreement, swap, warrant, note or option that is based, in whole or in part, on the value of, any interest in, any quantitative measure of, or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

Proposed law authorizes the commissioner of OFI to promulgate rules and regulations in accordance with the APA regarding the proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 6:415(B), (C), (D), (F) and (G); adds R.S. 6:415(I))